COALITION FOR A PROSPEROUS AMERICA

TRANSITION 2024

Executing President Trump's "America First" Plan for a Strong and Secure America

December 17, 2024

As the only national organization representing the interests of a broad array of domestic manufacturers and growers, the **Coalition for a Prosperous America (CPA)** is a strong supporter of President Trump's plans to strengthen the American economy and secure the United States against foreign adversaries and competitors. CPA submits the following policy proposals, organized by topic and department, to execute on President Trump's plan.

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Executing President Trump's Plan to strengthen the American economy and secure the United States against foreign adversaries and competitors.

CPA

1. EXECUTIVE OFFICE OF THE PRESIDENT

1.1. Proclaim a Supplemental Universal Tariff

President Trump campaigned on a popular platform of using tariffs to replace income tax, as well as to protect specific industries. CPA is a strong supporter of President Trump's plan to use tariffs for revenue, as well as protecting domestic production. Both are excellent features of tariffs, and it's not uncommon for a single tariff rate on a single product to provide a mix of both revenue and protection.

1.1.1. The President has the authority to impose a supplemental universal tariff, and there is historical precedent. On August 15, 1971, President Nixon issued **Proclamation 4074** to impose a supplemental 10 percent tariff on virtually all imports. To do so, President Nixon used the predecessor version of the current International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) ("IEEPA"). **Leading trade lawyers confirm** that the President has the authority to use IEEPA to impose a supplemental universal tariff.

1.1.1.1. Considerations:

1.1.1.1.1. **Embracing tariffs for revenue:** The first sentence of the first tariff act, passed by Congress on July 4, 1789, stated two intentions for American tariffs: revenue and protection. Tariffs for revenue were largely forgotten prior to President Trump's championing of the cause. It is important to reject the notion that, just because a particular tariff does not provide protection, it lacks utility. More often than not, there is a sliding scale between revenue and protection, and a given, precise tariff rate for a particular product may fall on one side or the other, or provide some of both.

1.1.1.1.2. **Supplemental tariff:** Anything below 25% typically acts as a revenue tariff, not a protective tariff. This is especially true in the United States today. U.S. customs valuation rules offer a myriad of opportunities for importers to reduce the taxable amount of 'ad valorem 'tariffs assessed on the basis of their overseas invoice.

For this reason, a 20% across-the-board supplemental tariff will largely have a revenue effect first and foremost, followed by some beneficial protective effect. As with President Nixon's tariff, it is imperative that the IEEPA action specify that the tariff is "supplemental" to existing rates. Substituting existing rates for a flat tariff across all products would undermine many import-sensitive agricultural quota programs, as well as other trade remedy actions.

On July 24, 2024, CPA released an economic analysis that found even a modest 10 percent tariff would provide $263 billion in new federal revenue. It would also stimulate domestic production and raise economic growth to produce a 5.7% increase in real income for the average American household.

1.1.1.1.3. **'Specific 'Tariffs for Specific Products:** There are some categories of products for which a 20 percent ad valorem tariff will not produce any meaningful revenue, nor offer any protection. A primary example would be pharmaceutical imports, where the import price may be fractions of a penny; the price markup comes in domestic distribution after importation. Specific tariffs on products like solar modules can be assessed on a $-per-watt basis, something the tariff schedule already facilitates.

1.1.1.1.4. Treasury Secretary Alexander Dallas developed a guidance document on tariff design, including when to favor ad valorem versus 'specific' tariffs (priced in USD, per unit of quantity). These guidelines remain as relevant today as they were 200 years ago. See CPA summary here. Implementation of the Universal Tariff should follow Dallas' guidelines.

1.1.1.1.5. **Exclusion System:** President Nixon authorized the Secretary of the Treasury to exclude products from the supplemental tariff. If such a system is adopted again, it should be led by USTR due to the Treasury Department's diminished tariff expertise (See problem 2.1 below).

1.1.1.1.6. **Consider excluding energy imports:** President Trump has prioritized declining energy prices. While domestic energy production ramps up, President Trump could consider excluding imports categorized under Ch. 27 of the Harmonized Tariff Schedule of the United States (HTSUS), which governs energy imports (oil, gas, electricity). In 2023, energy imports under Ch. 27 were valued at $251.9 billion. The vast majority of this was oil ($230.9 billion). Also included is $3.1 billion in electricity imports, primarily hydro-electric imports from Canada to the Northeast.

1.2. Proclamation on Mexican Steel and Aluminum Imports

1.2.1. President Trump's steel and aluminum Section 232 actions remain active. For this reason, the president has the ability to modify the actions without having to wait for a new investigation by the Department of Commerce. To that end, President Trump should issue a proclamation declaring a breach of the 2019 Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum due to surges from Mexico. He should use that proclamation to reimpose a 25% tariff on all steel imports from Mexico, including imports asserting compliance with President Biden's Proclamations 10782 and 10783 from July 10, 2024.

1.3. Sweeping IEEPA Order re Medicines and Health

1.3.1. Due to the severity of health issues facing the United States—including a critical reliance on foreign manufacturers for over 90% of generic drugs, recurring shortages of life-saving medicines, and national security risks posed by such dependency—it is imperative that the President invoke International Emergency Economic Powers Act (IEEPA) authority. This would enable immediate, unilateral action to address vulnerabilities in America's pharmaceutical supply chain, incentivize domestic manufacturing, and reduce reliance on adversarial nations such as China and India. By declaring a national emergency, and utilizing IEEPA powers, the president can implement targeted measures to secure the supply of essential drugs, stabilize the healthcare system, and protect the health and safety of millions of Americans. See discussion at Department of Health and Human Services, below.

2. UNITED STATES TRADE REPRESENTATIVE

2.1. Declare Breach of the Phase One Deal with China

2.1.1. USTR should evaluate China's compliance with the Phase One Deal and the existing action related to intellectual property, innovation, and technology. A determination that China has breached the deal will facilitate a modification of the existing action taken under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) to raise tariff rates to 60% and expand coverage.

2.2. 'Unbound' U.S. Concessions to the WTO

2.2.1. All significant economies in the WTO have repudiated the WTO's main principle of "Unconditional Most Favored Nation," as embodied in Article I of the General Agreement on Tariffs and Trade (GATT), by entering into bilateral and regional preferential tariff agreements. However, the United States continues to be the most undermined by this principle since it tolerates wildly asymmetric tariff concessions. The U.S. currently imposes an average bound tariff rate of just 3.4%— lower than any other World Trade Organization member. USTR should modify the U.S. Schedule of Concessions on Goods to the WTO to change each concession to "Unbound" (U) status. See sample memorandum here.

2.3. Cancel Bad Steel and Aluminum Deal With Mexico

2.3.1. The 2019 Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum has failed to stem surges of steel products from Mexico. USTR should make this finding and allow for Section 232 duties to be reimposed.

2.4. Withdraw from the WTO Government Procurement Agreement

2.4.1. The World Trade Organization Government Procurement Agreement (GPA) mandates that products of some 65 countries, including Hong Kong, are treated as if they were produced in the United States under Buy American laws. USTR should withdraw from this agreement.

3. OFFICE OF MANAGEMENT AND BUDGET

3.1. Closing the "Disaster Funding" Buy America Loophole

3.1.1. Some federal agencies have used a "disaster funding" loophole to avoid applying Buy America requirements to federally funded infrastructure projects such as BP oil spill restoration projects. OMB should issue a government-wide directive that this disaster funding exception only applies to imminent and recent disasters.

4. TREASURY DEPARTMENT

4.1. **Treasury's Loss of Tariff Policy Expertise Jeopardizes Universal Tariff Implementation.** Treasury is the Department responsible for customs revenue (see 6 U.S.C. § 212). Unfortunately, the Department has allowed this policy responsibility to atrophy.

Treasury's role as the lead agency on customs revenue was unambiguous from 1789 until 2002. But in the wake of the attacks on September 11, 2001, Congress passed the Homeland Security Act of 2002. Before this law, the U.S. Customs service was organized as part of the Treasury—the same as the Internal Revenue Service (IRS)—and was primarily a revenue agency. The Homeland Security Act, however, merged the U.S. Customs Service with border elements of the Immigration and Naturalization Service (INS, then part of the Department of Justice) to form a new agency—U.S. Customs and Border Protection (CBP). CBP, in turn, was organized under the new U.S. Department of Homeland Security (DHS). However, despite losing the customs agency, Section 412 of the Homeland Security Act (6 U.S.C. § 212) preserved Treasury's statutory authority over customs revenue.

4.1.1. Revoking Treasury Orders Subordinating Customs Revenue Policy; Begin Building Tariff Revenue Team as Authorized Under Current Law.

4.1.1.1. **Repeal Treasury Directive 18-03.** This directive requires that the DAS for Tax, Trade, and Tariff Policy (inside the Office of Tax Policy) "be subject to the policy guidance of the Office of the Under Secretary (International Affairs) on matters of trade policy." This Treasury Directive handcuffs the development of revenue tariff policies and their implementation.

4.1.1.2. **Repeal Treasury Order 100-20.** On October 30, 2024, Treasury Secretary Janet Yellen signed an order that largely delegated Treasury's responsibility for customs revenue policy to the Secretary of Homeland Security. (Order 100-20 was a continuation of this original delegation, Order 100-16, signed on May 15, 2003).

4.2. The Catastrophic 'De Minimis 'Loophole.

4.2.1. The problems of the 'de minis 'loophole in U.S. customs law are well known. De minimis' ongoing existence undermines every rule of law—and any notion of order—in U.S. ports. There is simply no way to effectively accomplish President Trump's tariff and trade policies when millions of packages are admitted duty-free into the U.S. each day, and with no meaningful scrutiny.

4.2.2. **Close the De Minimis loophole.** 'De Minimis' as it now exists was largely birthed by regulation, not statute. Section 321 of the Tariff Act of 1930, which remains titled "Administrative Exemption," was clearly never intended to be an avenue of commerce by Congress. Section 321 only became an avenue for commercial imports after publication of Customs 'Final Rule on April 14, 1995, titled "Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions." This rule enabled the practice of "Release on Manifest"; shipments are simply waived through without submitting an Entry Summary (CBP Form 7501). Entry Summaries are required for all informal and formal shipments, but de minimis provides a loophole from this essential requirement.

4.2.3. De minimis is precisely the type of policy identified by Elon Musk and Vivek Ramaswamy as worthy of rescission in their article: "The DOGE Plan to Reform Government." That article noted recent legal developments which have opened the window for the Trump administration to rescind de minimis entirely:

> In West Virginia v. Environmental Protection Agency (2022), the justices held that agencies can't impose regulations dealing with major economic or policy questions unless Congress specifically authorizes them to do so. In Loper Bright v. Raimondo (2024), the court overturned the Chevron doctrine and held that federal courts should no longer defer to federal agencies 'interpretations of the law or their own rulemaking authority. Together, these cases suggest that a

plethora of current federal regulations exceed the authority Congress has granted under the law.

CPA has produced a detailed backgrounder that describes how de minimis was created, and why it must be repealed, available here.

4.2.4. The Treasury Secretary can use the same authorities that created the de minimis loophole to now repeal it: Sections 498 and 321 of the Tariff Act of 1930. Authority under Section 321 can also be used to lower the threshold for duty-free treatment back down to $5, which is justifiable now that over 90% of shipments into the United States are filed as de minimis.

4.3. Correcting Inflation Reduction Act (IRA) Domestic Content Guidance:

4.3.1. The IRA provides a 10% domestic content bonus credit for solar generation projects that meet certain requirements: 100% of the steel and 40-55% of the “manufactured products” in the project must be domestically produced. However, for solar farms that actively track sun exposure, a Treasury guidance has moved much of their steel into the manufactured product category, meaning it can be produced anywhere, even China. Treasury should issue corrected guidance requiring that all steel in solar projects be domestically produced for the project to qualify for the 10% bonus credit.

4.4. Study on Exchange Rates, Trade, and the Economy

4.4.1. America’s military and civilian industrial base has been degraded by the nation’s persistent trade deficit in manufactured goods. Foreign currency undervaluation, in combination with dollar overvaluation, is the primary driver for this overall imbalance. Economic strategies to rebuild, including industry-specific policies, have difficulty succeeding due to this dollar misalignment.

4.4.2. President Reagan faced a persistent trade deficit in the 1980s. He opted to realign the dollar's exchange rate in 1985 through the Plaza Accord. That helped the U.S. rebalance trade flows over the next five years. Several countries agreed to this realignment—and intervened in markets to revalue or devalue their currencies.

4.4.3. Current U.S. policy involves free-floating exchange rates and free flow of capital. But other countries' financial ministries engage in policies that specifically manage their exchange rates to benefit their domestic economy. However, the U.S. continues to allow a tsunami of non-productive foreign capital inflows that are driving the dollar's exchange rate far above a competitive, trade-balancing equilibrium price. This lopsided currency equation has helped to transfer manufacturing from the U.S. to countries such as China and Mexico.

4.4.4. There are competing concerns about currency impacts on inflation, interest rates, bond markets, and dollar hegemony. The Treasury should study this issue and analyze all competing concerns to provide a roadmap for future action. If action is recommended, IEEPA can serve as a potential source of authority for decision making.

4.5. Ending Transshipment of Sanctioned Russian and Iranian Steel

4.5.1. Data indicates that large quantities of steel produced by sanctioned Russian and Iranian steel companies are entering the United States after being processed in third countries such as U.A.E. and Oman. Treasury should investigate and sanction companies in third countries that act as conduits for sanctioned steel companies in Russia and Iran, utilizing existing authorities under E.O. 14024 and E.O. 13871. This would include banning the importation of steel and steel products of Russian origin—whether subject to a substantial transformation in another country—and utilizing the enhanced authorities of the president established in E.O. 14114 of December 22, 2023.

4.6. Ensure IRA Tax Credits Do Not Fund Foreign Entities of Concern

4.6.1. Treasury has promulgated a "foreign entity of concern" rule under the Inflation Reduction Act. It excludes vehicles acquired after 2023 from the Clean Vehicle Tax Credit if the vehicle was assembled with battery components manufactured or assembled by a foreign entity of concern (FEOC). This is a welcome development, but Treasury should evaluate all options to ensure that this same exclusion is extended to other IRA credits.

4.7. Expansion and Improvement of Domestic Production Incentives

4.7.1. In calculating the domestic content percentage of a solar project, Treasury guidance recognizes only the "direct manufacturing costs and direct labor costs" of the components of PV modules—which suppliers are reluctant to provide. A Treasury guidance added a "safe harbor" of percentages that a solar project developer may use; however, these do not account for changes in market prices. As a result, it is difficult for domestic solar module producers to certify the domestic content of their products for solar project developers. Treasury should issue amended Guidance on Domestic Content to permit domestic PV solar module manufacturers to use Treasury's safe harbor percentages to estimate the "direct manufacturing costs and direct labor costs" of the components of the PV modules they purchase.

5. COMMERCE DEPARTMENT

5.1. Tariffs for Machines and Equipment; dealing with Chinese inputs

5.1.1. An unfortunate outcome of failed 'rules-based trade 'has been the concentration of trade remedy actions on manufacturing inputs. Anti-dumping is easier to measure on commodities than it is for finished equipment. In recent years, heightened security attention has been paid to America's increasing reliance on Chinese inputs. However, simply putting tariffs on Chinese inputs—without adding accompanying tariffs on finished goods—can invite further off-shoring. The Biden Administration is raising the tariff on Chinese semiconductors to 50% effective on January 1, 2025. But this action will be neutered if equipment and machines that make use of these semiconductors continue to be imported duty-free from other countries.

5.1.2. Existing trade law can address this situation. America's highest average 'Most Favored Nation '(MFN) tariffs by industry sector are found in apparel, with a 16 percent average tariff. However, apparel may be imported duty-free under USMCA or CAFTA-DR (or certain other free trade agreements) if the apparel is made with fabrics and fibers sourced from within the trade agreement countries. This is called the "Yarn Forward" rule, and while not perfect, it does serve as an effective model. It has been vital in preserving what remains of the U.S. textile industry.

5.1.3. Applying the "Yarn Forward" approach to Machines and Equipment entails raising MFN tariffs on machines and equipment, which are mostly listed under Chapters 84 and 85 of the Tariff Schedule. Currently, the large majority of products in Chapters 84 and 85 are set as duty-free for the entire world. The tariffs that do currently exist in Chapters 84 and 85 are typically between 3% and 4%, with the highest being on certain steam turbines, and set at only 6.7%. MFN tariffs on machines and equipment in Chapters 84 and 85 should be set much higher—ideally no less than the same 50 percent assessed against Chinese semiconductors.

5.1.4. With a higher MFN tariff in place, 'Rules of Origin 'for preferential tariff agreements and programs can be developed for products in Chapters 84 and 85. 'Rules of Origin' allows policymakers to set rules on product content before extending a tariff waiver. Both NAFTA and USMCA have specialized Rules of Origin for the automotive sector; however, the effectiveness of these rules was neutered by the inconsequential 2.5% MFN tariff on cars and car parts.

5.1.5. The Commerce Department has experience in raising 'MFN 'tariffs by way of Section 232 actions, and then subsequently developing heightened Rules of Origin to implement Tariff Rate Quotas. The Department did this with steel ("Melted & Poured" standard) and aluminum ("Smelted & Cast" standard). This same approach should be adopted to reshore OEM manufacturing, while ensuring producers in FTA countries do not undercut domestic producers by sourcing Chinese components.

5.2. Steel

5.2.1. The effectiveness of Section 232 tariffs on steel and steel products has been curtailed due to exemptions, overly generous concessions to specific countries, breached agreements within those countries, patchy coverage of the steel sector, and limited protection from a 25% ad valorem tariff level.

5.2.2. Commerce should quickly reimpose the 25% tariff on all steel imports from Mexico, including those asserting compliance with President Biden's Proclamations 10782 and 10783 from July 10, 2024, while studying the use of specific tariffs or minimum valuation rules for specific steel products to ensure the desired protective effect.

5.2.3. Replace Mexican and Canadian Voluntary Restraint Agreements with quotas and put Australia on a quota. Amend Proclamation 10783 to require that imports of Mexican steel meeting the melted and poured rule of origin be subject to a quota set at the average annual volume of such imports during the three-year period beginning on January 1, 2015 and ending on December 31, 2017.

5.2.4. Steel-heavy transportation products such as automobiles continue to be imported in large volumes. For example, roughly half of new passenger vehicles currently sold in America are imported. These imports are having a detrimental effect on the U.S. steel industry and its employees, and on U.S. national and economic security.

5.2.5. Increased Section 232 Tariff Rates: Issue a presidential proclamation increasing the Section 232 tariff rate to 100 percent. The 100% tariff reflects low transaction prices in the steel sector, exacerbated by undervaluation.

5.2.6. Note: In the Fordney-McCumber Tariff Act of 1922, Congress legislated a 40% "catch-all" tariff for manufactures of metal. This was raised to 50% in the Smoot-Hawley Tariff Act of 1930. It is important that the "catch-all" headings in the tariff code have higher rates than more specific headings.

5.2.7. Expand Coverage to all of HTS Chapters 72 (Iron and Steel) and 73 (Articles of Iron) and other derivative steel products: In the original 232 proclamation, "steel articles" was defined as various groups of products at the six-digit HTS subheading level (subheadings 7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90, and 7304.10 through 7306.90). Given the active product exclusion process that has since been developed by the Department of Commerce, as well as the deployment of "Generally Approved Exclusions," it makes no sense to limit the underlying 232 action to groups of HTS subheadings. Instead, all of Chapters 72 and 73 should be covered by default under the 232 steel action. Covering all of Chapter 73 would add Prestressed Concrete Steel Wire Strand ("PC Strand") (7312.10) and steel structures (7308) to the steel products that are subject to Section 232 tariffs. Presidential Proclamation 9980 (Jan. 24, 2020) also expanded the coverage of steel products to some HTS groupings outside of Chapters 72 and 73. The same should be done again, notably for HTS 8547 (insulating fittings for electrical machines, appliances or equipment) and prefabricated buildings of HTS 9406. Flatware in headings 8211 and 8215 should also be included.

5.2.8. Expand Coverage to PVC Alternatives: Include PVC conduit (HTS 3917/3926). It is an alternative to steel conduit, and offending importers could shift from dumping steel to dumping steel alternatives.

5.2.9. Resolve ambiguities in steel conduit classification by using HTS codes to control quota: In the 2019 voluntary restraint agreement with Mexico, import volume expectations were categorized using the product headings of the Steel Import Monitoring and Analysis System (SIMA). While the Department of Commerce does maintain a taxonomy converting SIMA categories to HTS codes, the use of SIMA classification allowed steel conduit importers to sidestep volume expectations. This is because steel conduit has successfully been imported under HTS 7306.30.50.28, which SIMA considers "Standard Pipe", as well as 7306.50.50.50, which SIMA considers "Mechanical Tubing."

5.3. Aluminum

5.3.1. The 10% tariff on aluminum imports covered by Section 232 is too low to advance the productive capacity goals of the original investigation.

5.3.2. Commerce should investigate and recommend specific tariffs ($/unit of measure) or develop minimum valuation mechanisms to ensure that the proscribed tariff offers the intended effect. "Smelted & Cast" duty-free quotas should be considered only when necessary due to the well-substantiated spread between domestic consumption needs and domestic production.

5.3.3. Coverage should be expanded to all of Chapter 76 of the HTS.

5.4. Copper

5.4.1. Commerce should self-initiate a Section 232 investigation into copper and articles thereof; all products covered by Chapter 74 of the HTS.

5.5. Automotive

5.5.1. Mexico currently sends the United States 20 new passenger vehicles for every one vehicle that the United States exports to Mexico. This is untenable. Commerce's 2019 Section 232 investigation into automotive should be updated, with recommendations setting a maximum number of vehicles that can be imported into the United States annually.

5.6. Medicine

5.6.1. With assistance from the Secretary of Health and Human Services, the Secretary of Commerce should self-initiate an investigation into the national security risks of medicine imports. A mix of tariffs and quotas should be used to ensure domestic self-reliance.

5.7. Food

5.7.1. With assistance from the Secretary of Agriculture, the Secretary of Commerce should self-initiate an investigation into the national security risks of food imports. A mix of tariffs and quotas should be used to ensure domestic self-reliance.

5.8. **Solar**

5.8.1. Commerce should self-Initiate an investigation into solar imports. President Biden largely gutted the Section 201 safeguard action authorized by President Trump. President Biden even went so far as to neutralize lawful AD/CVD actions by the Department of Commerce. On day one, President Trump should direct the Secretary of Commerce to initiate a Section 232 investigation into imports of solar cells and panels and recommend quota levels.

5.9. **Critical Infrastructure**

5.9.1. Direct the Secretary of Commerce to examine each of the 16 sectors identified by the Cybersecurity and Infrastructure Security Agency (CISA). These assets, systems, and networks are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety. Many of them include large quantities of steel and steel products. It's critical to identify any goods or machinery—as well as the industrial ecosystem needed to produce them—that the United States might be unable to procure or produce in sufficient quantities domestically. What's needed is a four-year plan for returning or increasing production of such goods and machinery to the United States. The use of phased-in Section 232 tariffs tied to reference prices, specific tariffs, and quotas should be contemplated to achieve this.

5.9.2. Support for Small And Medium Enterprise (SME) Manufacturing

5.9.3. Tariffs and exchange rate management are critical for reshoring and retention of existing production. However, more is needed when it comes to developing and commercializing new technologies where the United States has little existing capacity. For new industries, funding the non-chip research programs authorized by the CHIPS and Science Act is critical. Second, successful reshoring requires increasing federal funding for the Manufacturing Extension Program that helps SMEs in America's supply chains adopt and deploy the best available technologies and management practices. For large companies working at the frontiers of technology, it means more of the Manufacturing USA institutes that organize and provide partial funding for collaborative, pre-competitive research in new, cutting-edge multi-disciplinary technologies. And finally it means finding ways to help high-tech start-ups cross the "Valley of Death" (from prototype to commercial production) with U.S.-based financing. Too many young companies have been forced to seek support abroad, with the result that the manufacturing and ownership of valuable new technologies are lost to America.

6. DEPARTMENT OF AGRICULTURE

6.1. Prioritize Defending the Home Market

6.1.1. USDA has been far too focused on opening up market access abroad, while imports have captured most of the nation's domestic market. As a result, the Untied States acquired the unenviable status of 'Net-Food Importer' in 2023.

6.1.2. While the United States has had some success in exporting refined carbohydrates, it has become unacceptably dependent on imports of protein, fat, and fiber. This must end.

6.2. Developing Quota Expertise

6.2.1. USDA already works alongside USTR to administer import quotas on dozens of agricultural products. However, many of these quotas have been expanded to the point where they fail to offer any import relief, and have allowed imports to displace domestic production at unacceptable levels. USDA should allocate resources to develop new tariff rate quotas for all agricultural products to safeguard existing domestic production. It should also propose forward-looking thresholds that will facilitate increasing domestic yields.

6.3. Abolish Checkoff

6.3.1. USDA Research & Promotion programs—commonly known as "Checkoff"—applies a tax domestic agricultural producers. It then hands that money directly to groups controlled by multinational enterprises that prioritize the globalization of food over domestic American farmers and ranchers. USDA should use its full authority to end all checkoff programs.

6.4. Safeguarding domestic cattle

6.4.1. Reverse the USDA rule to allow the importation of fresh beef from Paraguay, a country still struggling with foot-and-mouth disease (FMD).

6.4.2. Make permanent the current prohibition against live cattle imports from Mexico until the cattle trafficking from Central America into Mexico is halted. New World Screwworm has been found in Mexico, and reports indicate it came from a cow imported from Guatemala (where illegal cattle trafficking is reportedly commonplace).

7. DEPARTMENT OF HEALTH & HUMAN SERVICES

This section outlines recommendations to support domestic manufacturing of generic drugs under FDA and CMS authority. Generic drugs account for 90% of all prescriptions in the United States and are integral to hospital formularies. Despite this, the U.S. remains heavily reliant on foreign manufacturers—particularly in India and China—for both active pharmaceutical ingredients (APIs) and finished products. This overreliance has led to recurring drug shortages, posing significant risks to public health and national security.

Compounding these challenges are growing concerns over the quality and safety of generics manufactured abroad. Numerous reports and investigations have revealed instances of substandard production practices, falsified data, and contamination in products from Indian and Chinese pharmaceutical companies. These safety issues not only jeopardize patient health but also undermine trust in the generic drug supply chain. Addressing these quality concerns by strengthening domestic manufacturing capacity is critical to ensuring that U.S. patients have reliable access to safe, effective, and high-quality medications.

The following recommendations leverage existing FDA and CMS authority, as well as emergency measures under the International Emergency Economic Powers Act (IEEPA), to reduce reliance on foreign manufacturers, address quality concerns, and build a resilient, domestic pharmaceutical supply chain.

7.1. **Expedite Inspections for Domestic Facilities.** Delays in inspections for U.S.-based facilities create bottlenecks for domestic manufacturers. Prioritize and expedite inspections for U.S.-based facilities.

7.2. **Create Fast-Track Approval Pathway for Domestic Manufacturers.** Lengthy approval timelines discourage investment in domestic manufacturing. Establish a 90-day fast-track approval process for ANDAs from U.S.-based manufacturers.

7.3. **Incentivize Advanced Manufacturing Technologies.** Outdated production methods hinder domestic competitiveness. HHS should offer regulatory flexibility, fee waivers, and expedited approvals for advanced manufacturing technologies like continuous manufacturing.

7.4. **Enhance API Transparency.** Lack of visibility into API country-of-origin information handcuffs consumer and provider decision-making. HHS should require API country-of-origin labeling on finished pharmaceutical products.

7.5. **Extend Market Exclusivity for Domestic Generics.** Domestic manufacturers face uncompetitive pressures from low-cost foreign producers, contributing to national drug shortages. Leverage IEEPA (International Emergency Economic Powers Act) to extend market exclusivity for domestically-manufactured generics to 270 days, for a temporary period of four years.

7.6. **Simplify Compliance for Small Manufacturers.** Complex compliance processes deter small domestic manufacturers. Streamline compliance reporting requirements for small manufacturers.

7.7. **Establish Public-Private Pilot Programs.** Limited collaboration hinders domestic capacity-building. Launch pilot programs to enhance domestic production of high-demand generics.

7.8. **Promote Buy-American Policies in Federal Procurement.** Federal procurement policies often prioritize low-cost foreign products over domestic ones. Work with federal agencies to prioritize domestically manufactured generics in procurement decisions under the Buy American Act and other applicable law.

7.9. **Streamline Approvals for Redundant Manufacturing Facilities.** Delays in supplemental ANDA approvals hinder capacity expansion. Streamline approval pathways for supplemental ANDAs related to redundant facilities.

7.10. **Enforce Compounding Guidance.** The FDA's guidance on prohibiting the compounding of essentially identical versions of FDA-approved drugs is not being enforced. Mandate enforcement of compounding guidance and implement penalties for violations.

7.11. **Addressing the National Emergency on Generic Drug Shortages.** The United States is currently reliant on foreign manufacturers for over 90% of its generic drug needs, leading to recurring shortages of life-saving medicines. Because of the national security risks posed by this dependency, it is imperative that the President invoke International Emergency Economic Powers Act (IEEPA) authority. This power enables immediate, unilateral action to: address vulnerabilities in America's pharmaceutical supply chain, incentivize domestic manufacturing, and reduce reliance on adversarial nations such as China and India. By declaring a national emergency and utilizing IEEPA powers, the president can implement targeted measures to secure the supply of essential drugs, stabilize the healthcare system, and protect the health and safety of millions of Americans. More specific policy goals could also include:

7.11.1. Mandate that all pharmaceutical products disclose the country of origin for APIs on labels.

7.11.2. Temporarily extend market exclusivity from 180 days to 270 days for domestically-manufactured generics critical to the national supply chain.

7.12. **Promote Buy-American Procurement Policies.** Mandate that federal procurement programs, including Medicare, Medicaid, and the Department of Veterans Affairs (VA), prioritize domestically-manufactured generics.

8. DEPARTMENT OF ENERGY

8.1. "Foreign Entity of Concern" Loophole for Battery Grants and Electric Vehicle Credits

8.1.1. Under Department of Energy interpretations, a Chinese company that is a "foreign entity of concern" on the basis of its being organized or headquartered in China can still own up to 100% of a U.S. entity that is eligible for DOE battery grants and whose battery products can be included in automobiles eligible for the 30D clean vehicle credits.

8.1.2. In November of 2021, Congress enacted the Infrastructure Investment and Jobs Act ("IIJA"), also known as the Bipartisan Infrastructure Law ("BIL"), Pub. L. 117–58. The BIL included the "Battery Material Processing Grant Program" under which the Secretary of Energy can award grants for the purpose of building a viable battery materials processing industry in order to expand the capabilities of the United States in advanced battery manufacturing. (42 U.S. Code § 18741.)

8.1.3. The BIL provides that, in awarding grants under the Battery Material Processing Grant Program, the Secretary of Energy shall "(i) give priority to an eligible entity that— . . . will not use battery material supplied by or originating from a foreign entity of concern" ("FEOC"). A similar provision applies to grants under the Battery Manufacturing and Recycling Grant program.

8.1.4. The BIL provides a definition of a foreign entity of concern that includes any foreign entity that is "owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation." (China, Russia, North Korea, or Iran).

8.1.5. On May 6, 2024, the Department of Energy issued a final rule interpreting this provision. (89 Fed. Reg. 37079):

> DOE interprets that an entity is "owned by, controlled by, or subject to the direction" of another entity (including the government of a foreign country

that is a covered nation) if (i) 25% or more of the entity's board seats, voting rights, or equity interest, with each metric evaluated independently, are cumulatively held by that other entity, whether directly or indirectly via one or more intermediate entities.

8.1.6. However, there is a special rule as it applies to third-country subsidiaries of FEOCs—if the FEOC designation of the parent entity is determined solely on the basis of jurisdiction. In such a case, a minority interest of the parent in the subsidiary will not be counted in determining whether the subsidiary meets the 25% test for a FEOC.

8.1.7. The DOE interpretation also applies to the electric vehicle credits of section 30D of the Internal Revenue Code established by the Inflation Reduction Act (Pub. Law 117-169, § 13401(d)(7)) and the interpretive regulations issued by the Internal Revenue Service (89 Fed. Reg. 37706).

8.1.8. So, a Chinese company that is an FEOC on the basis of its being organized or headquartered in China can still own up to 100% of a U.S. entity that is eligible for DOE battery grants and whose battery products can be included in automobiles eligible for the 30D clean vehicle credits.

8.1.9. DOE should publish a notice of proposed rulemaking rescinding this special rule and applying the cumulative control test to U.S. subsidiaries of Chinese companies that are FEOCs on the basis of jurisdiction, and reducing the permissible cumulative control percentage from 25% to 10%.

9. DEPARTMENT OF LABOR

9.1. No ERISA Investment in Companies of Adversary Nations

9.1.1. Adopt a rule to prohibit private pension plans governed by the Employee Retirement and Security Act (ERISA) from investing in any "foreign adversary entity" or "U.S.-sanctioned entity."